



# EMPLOYMENT TRIBUNALS

**Claimant:** Mr O Dixon

**Respondent:** Clive Harrill

**Heard at:** Remotely, by video

**On:** 21 January 2022

**Before:** Employment Judge S Moore

## Representation

Claimant: In person

Respondent: In person

# JUDGMENT

1. The claimant's claim for unauthorised deduction from wages fails. The claim is dismissed.

# REASONS

## Background and introduction

2. The ET1 was presented on 15 June 2021. This followed a period of early conciliation with the prospective respondent named as Clive Harrill. The date of receipt by ACAS of the early conciliation notification was 17 May 2021. The date of issue by ACAS of the early conciliation certificate was 15 June 2021. The claimant brought a claim for unauthorised deduction from wages. The claimant had produced a bundle of documents. I heard witness evidence from the claimant and the respondent.

## Findings of fact

3. Mr Harrill is a director of a limited company called Property Advertising Services Ltd. The company number is 04797204. The company was registered in 2003. It is a small family business operating in North Wales with the claimant's wife as a fellow director. The activities of the company are and always have been to supply and erect for sale signs for estate agents. Mr Harrill told me and I accepted his evidence that neither he or his company have ever been involved in advertising properties to let on Facebook or otherwise and he has never employed anyone including the claimant.
4. Mr Harrill's business email address ends with aol.com.

5. In February 2021 the claimant applied for a job that had been advertised on the Indeed job advertisement website for a property lettings advertising assistant. He received a response to his application and email purporting to be from a Mr Clive Harrill. The email quoted the details of Property Advertising Service Ltd on the bottom of the email, stating it was a UK registered company and quoting the correct company number.
6. The email from this Clive Harrill was not the aol.com email. The email used in the correspondence between this Mr Clive Harrill and the claimant was propertyadvertisingservicesltd@gmail.com.
7. All communications between this Mr Clive Harrill and the claimant were always by email. The claimant never had any other type of contact with this Mr Clive Harrill including any telephone discussions or face-to-face contact. The claimant had provided his mobile number thinking some matters would be easier to discuss by phone but this offer was never taken up.
8. I find that whoever authored these emails, it was not the respondent to these proceedings that is Mr Clive Harrill, company director of Property Advertising Services Ltd. The claimant had no way of knowing this at that time. The claimant reasonably believed he was entering into a contract of employment with a legitimate business.
9. The claimant was offered the position by a person pretending to be Mr Clive Harrill. The claimant was sent an email on 5 March 2021 which purported to explain something about Mr Harrill and the job position. This Mr Harrill stated he had formed the company just over 17 years ago. The claimant would be required to advertise properties to let on his own gumtree account and Facebook marketplace. He was offered a rate of pay £12 per hour working from home with no set hours. The claimant was offered a temporary work agreement for the first month and to that end a contract of employment was provided to the claimant on 9 March 2021. It was signed by someone who used the signature Clive Harrill. The contract of employment named the employer as Property Advertising Services Ltd. The contract was not between Mr Clive Harrill and the claimant. There was no company address inserted into the contract of employment. The claimant signed and returned the contract of employment on 10 May 2021 and began to work for a person pretending to be Mr Harrill.
10. The claimant was sent details of properties to let by this Mr Harrill, always by email. He was then required to advertise these properties on his own personal Facebook Market Place page. The claimant would then be required to collate leads from prospective tenants who contacted the claimant and pass them on to the person pretending to be Mr Harrill. The claimant was never involved with any onward steps to let the properties although he had on several occasions trying to arrange viewings as prospective tenants were keen to do so but his attempts to contact the person pretending to be Mr Harrill in this regard tended to be ignored. The claimant on some occasions was harassed by frustrated prospective tenants that they were not being contacted back by the person pretending to be Mr Harrill. One tenant told claimant that they had actually gone to one of the properties he had advertised to check it was indeed for rent and found that it was to let which reassured the claimant.
11. The claimant subsequently submitted an invoice for the work that he had undertaken for the person pretending to be Mr Harrill on 7 May 2021 in the sum of £800.60. After that the claimant received no further communication and he received no payment. The claimant made numerous attempts to contact the person he believed to be Mr Harrill on the email referenced above but in the absence of any communication whatsoever he took steps then to contact ACAS

and lodge this claim.

12. Mr Harrill's ET3 disputed that he had ever employed the claimant. Mr Harrill told me and I accepted his evidence that the first he was aware of the situation was when he began to receive contact from ACAS not just on this claimant but from other claimants who had initiated the early conciliation procedure. Mr Harrill had no idea or knowledge of employing the various individuals he is been said to have employed and informed ACAS as such. Mr Harrill has reported these matters to the police and has been referred to Action Fraud. He has been informed that they cannot act on Mr Harrill's behalf as he has not incurred any losses. He was instructed by Action Fraud to pass on the reference number provided by action fraud to the claimants. Mr Harrill has been very distressed about the situation and tried to assist the claimant where possible by passing on the action fraud details.

### Conclusions

13. On the basis of the evidence before me I have concluded that both the respondent and the claimant have been the victim of fraudulent activity. A person or persons unknown have impersonated Mr Harrill and used the company details of Property Advertising Services Ltd to employ the claimant without the knowledge or consent of that company or the directors. I am unable to conclude what the object of the contract was on the part of the unknown person who has impersonated Mr Harrill but it is reasonable to conclude that the object was potentially of criminal or immoral intent. I therefore find that the contract of employment is unenforceable.
14. Had the contract not been found to be illegal, a further issue is that the early conciliation and the claim have been brought against Mr Harrill personally. The claim should have been brought against the limited company as that was the employing entity. The claim could not have therefore ever have succeeded against this respondent.
15. For these reasons I have dismissed the claim.

Employment Judge S Moore

Date 21 January 2022

JUDGMENT & REASONS SENT TO THE PARTIES ON 25 January 2021

FOR THE TRIBUNAL OFFICE Mr N Roche